



LETTER FROM THE CHIEF COMMISSIONER

Treaty making is a legal, economic and increasingly, political necessity in British Columbia. Morally, it is the right thing to do.

First Nations have pressed their claims to aboriginal title and other fundamental human rights since the Crown first asserted sovereignty here. With equal vigour the Crown rebuffed First Nations' claims to any unique rights. Canadian courts have said this denial of fundamental rights is, and was, wrong.

The Canadian constitution recognizes and affirms aboriginal rights. Aboriginal title which is a unique and exclusive property right is legally recognized and protected in BC. The Supreme Court has told the Crown and First Nations to negotiate how these rights will be reconciled with the rights of other Canadians. The reputation of Canada is at stake at home and on the world stage for the way in which it deals with aboriginal rights. And politically, the willingness of the parties to reconcile rights through negotiations, and not through other means, depends on their promise of success.

That is the challenge now facing the parties in the treaty process. The Treaty Commission recognizes there are deep-seated differences among the parties in negotiations primarily because of the conflicting treaty visions acknowledged in this annual report. When the parties have a different starting point, the process of reconciliation is understandably difficult. But it is not impossible.

The issues in these negotiations are now clear. There is no longer any confusion about the differences among the parties. Admittedly, there are tough choices to be made in

reaching agreements. But with willingness and a commitment to face these differences, the parties should be able to resolve them. In the absence of such commitments, we see only conflict and confrontation.

The Treaty Commission expects negotiations to continue at many of the tables. There are opportunities for progress through interim measures, and perhaps, to reach agreements on some treaties or parts of treaties in the months ahead. The willingness of all the parties to find solutions will be the determining factor.

The Treaty Commission will take a much more active role in working with the parties to resolve impasses and to find creative solutions that advance the cause of reconciliation. Ultimately, success or failure rests with the parties to the negotiations.

As required under terms of an agreement between the Government of Canada, the Government of British Columbia and the First Nations Summit, the Treaty Commission is to submit annually to the Parliament of Canada, the Legislative Assembly of British Columbia and the First Nations Summit a report on the progress of negotiations and an evaluation of the process. This report is submitted in compliance with that obligation.

Respectfully,

Miles G. Richardson
Chief Commissioner

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CONFLICTING TREATY VISIONS

Do modern treaties aim to transform undefined aboriginal rights into clearly defined land and resource allotments so that there can be certainty about who owns what in the province? Or is the purpose of treaties to work out relations for mutual sharing among equal partners?

Will treaties result in a full and final settlement of outstanding aboriginal rights? Or will they mean an ongoing cross-cultural dialogue between partners over matters of mutual concern?

Do First Nations come to treaty talks as minority groups within Canadian society? Or do they participate as equal partners in government-to-government negotiations?

These questions reflect two very different visions of modern treaty making. The challenge is to find fair and honourable agreements that allow all three parties to achieve what is fundamental to each of them.

Modern treaty making, and visions of what treaties should be, are rooted in the history of Canada. From the earliest days of its presence in North America, the British Crown pursued a policy set out in the Royal Proclamation of 1763 that recognized aboriginal title. An effect of the policy was that only the Crown could acquire lands from First Nations, and only by treaty. This didn't happen in British Columbia.

While many treaties were signed east of the Rockies, treaty making remains unfinished business in British Columbia. The Crown established sovereignty in British Columbia in 1846 but

not by conquering the aboriginal societies and not by gaining their consent through treaties. Sovereignty, and its rules, was simply imposed.

Treaty making offers the possibility of a comprehensive, honourable and durable relationship between aboriginal and non-aboriginal governments that takes into account indigenous and western principles within the constitutional framework of Canada.

The challenge is to find a way to reconcile the different visions and understandings of the new relationship that aboriginal and non-aboriginal people appear to have. These differences revolve around:

- the nature of the *relationships* that treaties are to achieve;
- the *purpose* of negotiations; and
- the kind of *reconciliation* that will result from treaties.

Professor Jim Tully of the University of Victoria put forward these ideas in a keynote address to a forum on treaty making co-hosted by the Treaty Commission and the Law Commission of Canada in March 2000.

According to Professor Tully, the federal and provincial governments assume that the *relationship* will be with minorities who are already somehow subordinate to the Crown. Many First Nations hold, based on their history of owning and governing their territories, that they enter the negotiations on an equal, nation-to-nation footing. In their

view, the terms of the new relationship must be fully negotiated, not largely assumed. Tully notes that First Nation self-determination can be accommodated within the Canadian constitutional framework.

As to the *purpose* of negotiations, the federal and provincial governments see them as achieving certainty by moving from undefined aboriginal rights under the Constitution to defined treaty rights under the Constitution. In this view, once a treaty is implemented, only those defined treaty rights can be exercised.

First Nations, by contrast, do not see their aboriginal rights to land and resources and to self government as undefined. These rights are recognized in their own traditional law and some have been recognized in domestic and international law. For First Nations, the *purpose* of treaty negotiations is not extinguishment of aboriginal rights but finding ways to share power and lands with the Crown as equal, coexisting partners. For them, certainty will be achieved through renewable, ongoing agreements between mutually recognized partners, not through a final and definitive settlement.

If the federal and provincial governments see full and final settlement of outstanding aboriginal rights as the basis for *reconciling* Crown sovereignty with the pre-existence of aboriginal society, First Nations see this differently. To quote Tully, "For them, reconciliation is an ongoing activity, a continuous process of cross-cultural dialogue over time between partners over matters of their shared concern."

In one sense, non-aboriginal opponents of the treaty process have similar views to First Nations on this issue: neither wishes to have final agreements placed beyond review and renewal.

To build the type of cross-cultural partnership envisaged here, the parties must first enter into an honest dialogue — what Tully calls "a diplomacy of rituals and story-telling" — to strip away the misunderstandings between them and to better understand each other's ways, customs, histories and relationships to the land.

The conclusion to be drawn is that there are deep-seated differences. But for reasons of constitutional and democratic legitimacy, and also for practical reasons, there can be no turning back.

Addressing these differences will be key to moving the process forward. The parties have already begun to tackle some of them and have announced a series of measures to regain momentum and to build new relationships on the ground.

There are challenges, but there are also opportunities...

CHALLENGES AND OPPORTUNITIES

Former Supreme Court Chief Justice Antonio Lamer says treaty making is the most important and difficult challenge facing Canada in the 21st century. Given the size of the challenge the treaty process presents it is perhaps not surprising that progress has been difficult to achieve.

While there are many challenges facing the treaty making process in British Columbia, in the view of the Treaty Commission there are also many opportunities to make progress over the coming year. The challenges and opportunities facing the treaty process are set out here.

CHALLENGES

Treaty negotiations are proving that building new relationships among First Nations, the Government of Canada and the Government of British Columbia is not quickly or easily accomplished.

First Nation frustration over lack of progress, mounting loans for negotiations and continued alienation of land and resources is prompting protest, threats of direct action and litigation. The public is also frustrated with the cost of treaty making, the length of time negotiations are taking and with some of the solutions being put forward.

Treaties aim at building relationships but it can sometimes seem that the process of negotiation does more to shine a light on differences than bring people together in a spirit of reconciliation. It is not surprising that the differences among

the parties are starting to show at this time because the parties are now dealing with the most difficult challenges in treaty making.

Over the past year, many First Nations presented detailed proposals of what they are looking for in a treaty. And the governments of Canada and BC presented joint offers at five negotiating tables. The detailed nature of these proposals and offers put the gap in expectations between the parties in stark relief. The First Nations rejected all five offers but negotiations are continuing as the parties try to bridge the gap.

The Issues

While none of the parties has walked from negotiations, it is now difficult to say when an agreement in principle will be achieved at any of the tables where an offer has been made. Resolution must be found in a number of key areas before agreements are possible:

- who will own what land after treaties;
- jurisdiction, including the issue of co-jurisdiction over lands;
- resource revenue sharing;
- financial arrangements and the issue of compensation; and
- the model for achieving certainty.

LAND AND JURISDICTION

First Nations want to maintain ties to their traditional territories to preserve their culture and identity. And they feel that they should have a voice in management of lands and seas to protect this interest.

Many First Nation proposals contemplate that the First Nation will continue to own a portion of their traditional territory and co-manage, working together with other governments, other parts of their territory.

The joint offers by the federal and provincial governments anticipate a smaller land base for First Nations than is contemplated in First Nation proposals and a minimal role for First Nations in the management of land outside treaty land. The provincial government has opposed co-management saying it would undermine its ability to make resource use

decisions that reflect the interests and needs of all British Columbians.

RESOURCE REVENUE SHARING

Sharing revenues from resources taken from within their traditional territory is also an important principle for many First Nations in recognition of their tie to the land. But the provincial government has opposed resource revenue sharing, calling it "a dubious form of financing for a government." Provincial Aboriginal Affairs Minister Dale Lovick has said, "First Nations ought to have a more stable and predictable source of revenues to finance self government and economic development." Resource revenue sharing has been identified as a subject for further high-level discussion to see if an accommodation can be reached.

CASH COMPENSATION

Land and self government are generally seen as the key issues in treaty negotiations. But there is also disagreement over the amount of money being offered and the purpose it is meant to serve. Many First Nations argue that they should be compensated for the land they are being asked to give up and for the wrongs done to them in the past. The federal and provincial governments see compensation as a legal issue that would require proof of entitlement. They see treaties not as backward-looking documents but as mechanisms for building strong communities in the future.

A blend of these approaches was recommended in the 1991 British Columbia Claims Task Force report, which is the basis

for the BC treaty process. It says, "negotiations will likely include consideration of a financial component to recognize past use of land and resources and First Nations ongoing interests." And further that: "Although recognition of past and current uses is important, detailed calculations would be technically difficult, costly and time consuming. The task force encourages the parties to reach a negotiated solution by bargaining in good will and good faith in the determination of compensation."

CERTAINTY

This central issue arises from the parties' need for certainty:

- of jurisdiction;
- over who owns the land and resources; and
- in the legal wording used in treaties to achieve it.

In the past, treaties have required First Nations to "cede, release and surrender" their aboriginal rights in exchange for treaty rights. This is referred to as an "extinguishment model."

By the time the Nisga'a treaty was being negotiated, this was no longer acceptable to many First Nations because they saw it as giving up any rights which may not be included in a treaty. A great deal of time and expertise was spent on all sides of the Nisga'a table to develop what has been referred to as a "modification model." Under this model, aboriginal rights are not extinguished but are modified into those rights that are defined in the treaty. Many First Nations, who see it as simply another form of an extinguishment model, have criticized this approach. At a number of tables disagreement over certainty has been an obstacle to progress that prevents discussion of other matters.

Choices for Resolution

Another challenge to the treaty process is the temptation to turn to litigation when negotiations appear to be failing. Litigation has always been an alternative to negotiations for all parties. But to date, most First Nations and the federal and provincial governments have preferred negotiations to the cost of drawn out litigation and years of appeals. The courts have also repeatedly urged parties to negotiate because once the issue of aboriginal title is settled in court, a host of other aboriginal rights remain to be dealt with on a case-by-case basis. As well, practical issues and conflicts will remain to be negotiated, and with some degree of urgency.

Confrontation has sometimes been the result when the governments of Canada or BC take unilateral actions that adversely affect First Nations and when First Nations resort to direct action. But, at the end of the day, after the confrontation ends and litigation is decided, the reality of having to live and work together remains. The federal and provincial governments and First Nations must negotiate a relationship and a way to deal with lands, seas and resources that works for all.

Against this backdrop, the Treaty Commission is committed to helping the parties work through impasses over the difficult issues at the negotiating table. The commitment of the parties to effective negotiations must be strong enough for them to find ways through the impasses.

The Treaty Commission will work with the parties over the coming year to develop and strengthen agreed processes for breaking impasses that will allow the parties to effectively negotiate to conclude treaties.

OPPORTUNITIES

More Interim Measures Expected

There are hopeful signs that while negotiations on the tough issues are continuing, there will be a more concerted effort to conclude interim measures and promote economic opportunities in the short-term.

Local governments, business and industry, for the first time, support the call for interim measures, see the economic benefits for communities and the potential for a more stable environment for investment.

Among the solutions being offered by the federal and provincial governments is a type of interim measure known as treaty-related measures. The two parties share the financial costs of interim measures equally and additional people are being assigned to negotiate them. The provincial government has allocated an additional \$20 million in its budget for this purpose.

Treaty-related measures may be used to protect Crown lands to be included in a treaty, provide for land purchases from willing sellers, widen First Nation participation in land and resource management and provide for First Nation economic development.

The Principals—the federal Indian and Northern Affairs minister, the provincial Aboriginal Affairs minister and First Nations Summit leaders—agreed to a statement on interim measures in Prince George in April 2000. This statement, in addition to being an important expression

of renewed political will, directs negotiators to deliver benefits to First Nation communities sooner as negotiations continue.

The First Nations Summit, in a public announcement, said it was encouraged by the commitment of the federal and provincial governments to get serious about interim measures but pointed out that “real progress will be achieved when we see concrete action on the ground.”

Interim measures recognize that treaties will take time to complete. In the meantime, issues must be dealt with and interim measures are the most effective means to do this in a peaceful and productive manner. They also let First Nations, other governments, industry and the public test solutions before they are written into a treaty.

The Treaty Commission urges the parties at each negotiation table to identify appropriate interim measures and to put them in place immediately to demonstrate that the new relationship being sought in treaties has begun.

Creative Approaches Emerging

A sign that creative new approaches are possible is the political accord signed in May 2000 between the Wet'suwet'en Nation and the provincial and federal governments. The accord commits the three parties to work cooperatively to increase Wet'suwet'en Nation involvement in forestry and other economic partnerships.

Another recent development is the statement on certainty principles, which the Principals agreed to at a meeting in Prince George in April. It gives the parties the flexibility to achieve agreements in principle without determining the exact legal certainty wording until final negotiations. Or, tables can choose to pursue a solution during agreement-in-principle negotiations. In the meantime, the parties will look for other approaches to address First Nations' concerns about extinguishment of their aboriginal rights not dealt with in a treaty.

Westbank First Nation and the provincial and federal governments signed a Tripartite Political Accord on Treaty Negotiations in a meeting chaired by the Treaty Commission. The accord sets the stage for resuming treaty negotiations and follows closely on the heels of the agreement on certainty reached in Prince George.

Westbank Chief Ron Derrickson, in a joint statement with the provincial and federal governments, said the accord commits the parties to working together to find a way to achieve legal certainty in their agreement. They will explore alternatives that do not include extinguishment or the requirement to "cede, release and surrender" their aboriginal rights not dealt with in the treaty. The Treaty Commission has congratulated the parties for finding a way to acknowledge each other's legitimate interests and an agreeable starting point for further negotiations.

Getting Ready for Treaties

Canada has committed \$15 million over three years towards initiatives in BC that will build First Nations' capacity to achieve and implement treaties. A Capacity Initiative Council, now in its second year, was created to review proposals from First Nations and make recommendations on allocations. The council, comprising First Nations, government, industry and labour representatives, has proposed funding for 70 First Nation projects for the coming year totaling \$5 million.

Funding in the first year helped First Nations to undertake strategic planning, integrated resource management planning, lands and resource information training and management, as well as more detailed projects which address the fundamentals of fisheries, forestry and related governance training.

Nisga'a Treaty Significant

The single biggest event in modern-day treaty making in British Columbia was April 13, 2000 when the Nisga'a treaty became law.

The Treaty Commission, in a letter of congratulations to the Nisga'a Nation, noted, "it has been too long between the last treaty signed in British Columbia and the Nisga'a treaty. But, the Nisga'a Nation can take pride in having led the way in building new relationships among First Nations and the governments of Canada and British Columbia. The Nisga'a Nation has shown that, through the give and take of negotiations, treaties are possible." The Treaty Commission

also congratulated the governments of Canada and British Columbia for their commitment to treaty making.

Although the Nisga'a treaty was not concluded under the BC treaty process—negotiations began before the Treaty Commission was established—it marks a significant achievement in the history of the relationship among the Province of British Columbia, Canada and First Nations.

Next Steps

Despite the challenges, it is the Treaty Commission's view that negotiations will continue at a number of tables around the province. There are opportunities to make progress, and perhaps, to reach agreements on some treaties or parts of treaties in the months ahead. The willingness of all parties to find solutions through negotiations will be the determining factor.

As evidence of that political will, the Principals have committed to spending the time required to address the long standing issues. Federal Indian and Northern Affairs Minister Robert Nault has committed to being in British Columbia as often as it takes to make the treaty process work. His provincial counterpart, Aboriginal Affairs Minister Dale Lovick has also committed to continuing meetings to find solutions, as has the First Nations Summit. The Treaty Commission will continue to facilitate these meetings.

Proposals

n-SHUCK-ch N'Quat'qua Ditidaht Pacheedaht Sliammon Gitanyow Snuneymuxw In-SHUCK-ch N'Quat'qua
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Offers

PROGRESS REPORT

As of May 30, 2000 there are 51 First Nations, involved in 42 sets of negotiations, participating in the BC treaty process:*

First Nations in Stage 2:1
Council of the Haida Nation

First Nations in Stage 3:11
Cheslatta Carrier Nation
Katzie Indian Band
Lake Babine Nation
Musqueam Nation
Squamish Nation

MEMBERS OF THE WINALAGALIS TREATY GROUP:

Kwakiutl Nation
'Namgis Nation
Da'naxda'xw Awaetlatla Nation
Gwa'Sala-'Nakwaxda'xw Nation
Tlatlasikwala Nation
Quatsino First Nation

First Nations in Stage 4:38

MEMBERS OF THE NORTHERN REGIONAL NEGOTIATIONS

Carcross / Tagish First Nation
Champagne and Aishihik First
Nations
Taku River Tlingit First Nation
Teslin Tlingit Council

NEGOTIATING AT ONE TABLE

Gitksan First Nation
Pacheedaht Band

Cariboo Tribal Council
Carrier Sekani Tribal Council
Esketemc First Nation
Gitanyow Hereditary Chiefs
Gitksan Hereditary Chiefs
Haisla Nation
Heiltsuk Nation
Homalco Indian Band
Hul'qumi'num Treaty Group
In-SHUCK-ch
Kaska Dena Council
Klahoose Indian Band

Ktunaxa/Kinbasket Treaty Council
Laich-Kwil-Tach K'omoks Mamalillikula

Tlowitsis Council of Chiefs
Lheidli T'enneh Band
Nazko Indian Band
Nuu-chah-nulth Tribal Council
Oweekeno Nation
Sliammon Indian Band
Snuneymuxw First Nation
Sto:Lo Nation
Te'Mexw Treaty Association
Ts'kw'aylaxw First Nation
Tsawwassen First Nation
Tsay Keh Dene Band
Tsimshian Nation
Tsleil-Waututh Nation
Westbank First Nation
Wet'suwet'en Nation
Xaxli'p First Nation
Yale First Nation
Yekooche Nation

First Nations in Stage 5:1
Sechelt Indian Band

* Several groups of First Nations are negotiating at common tables.

SIX STAGE TREATY PROCESS

The six stage treaty process is set out in the BC Claims Task Force Report of 1991 and incorporated in the tripartite Treaty Commission Agreement of 1992.

Stage 1 – Statement of Intent to Negotiate

A First Nation files with the Treaty Commission a Statement of Intent (SOI) to negotiate a treaty with Canada and British Columbia. To be accepted by the Treaty Commission, the SOI must meet several criteria. It must identify, for treaty purposes, the First Nation's governing body, and the people that body represents and show that the governing body has a mandate from those people to enter the process. The Statement must describe the geographic area of the First Nation's distinct traditional territory in BC and identify any overlaps with other First Nations. The First Nation must also name a formal contact person.

Stage 2 – Readiness to Negotiate

The Treaty Commission must convene an initial meeting of the three parties within 45 days of accepting a Statement of Intent. For most First Nations, this will be the first occasion on which they sit down at a treaty table with representatives of Canada and British Columbia.

This meeting allows the Treaty Commission and the parties to exchange information, consider the criteria for determining the parties' readiness to negotiate and generally identify issues of concern. The meeting usually takes place in the traditional territory of the First Nation.

The Treaty Commission must determine that all three parties are ready to negotiate. The three parties must each demonstrate that they have: a

commitment to negotiate; a qualified negotiator; sufficient resources to undertake negotiations; a mandate and a process to develop that mandate; and identification of ratification procedures. The First Nation must have begun addressing any overlaps. The two public governments must have a formal means of consulting with third parties, including local governments, interest groups and the public at large.

If the three parties have everything in place, the Treaty Commission will declare the table ready to begin negotiating a framework agreement.

Stage 3 – Negotiation of a Framework Agreement

The framework agreement is, in effect, the "table of contents" of a comprehensive treaty. The three parties agree on the subjects to be negotiated, goals, procedural arrangements and an agenda for negotiations.

Canada and BC engage in public consultation at the regional and local levels through Regional Advisory Committees and sometimes through Local Advisory Committees. Municipal governments participate in the negotiations through Treaty Advisory Committees.

At the provincial level, consultation occurs through the 31-member Treaty Negotiation Advisory Committee which represents the interests of business, industry, labour, environmental, recreation, fish and wildlife groups.

The parties at each negotiating table must establish a public information program that will continue throughout the negotiations.

Stage 4 – Negotiation of an Agreement in Principle

This is where substantive treaty negotiations begin. The three parties examine in detail the elements outlined in their framework agreement. The goal is to reach agreements in principle on each of the topics that will form the basis of the treaty.

These agreements will identify and define a range of rights and obligations, including: existing and future interests in land, sea and resources; structures and authorities of government; relationships of laws; regulatory processes; amending processes; dispute resolution; financial compensation; fiscal relations and so on.

The agreement in principle also lays the groundwork for the implementation of the treaty.

First Nations are expected to have resolved overlaps before completing Stage 4.

Stage 5 – Negotiation to finalize a treaty

The treaty formalizes the new relationship among the parties and embodies the agreements reached in the agreement in principle. Technical and legal issues are resolved at this stage. A treaty is a unique constitutional instrument to be signed and formally ratified at the conclusion of Stage 5.

Stage 6 – Implementation of the treaty

Long-term implementation plans need to be tailored to specific agreements. The plans to implement the treaty are put into effect or phased in as agreed. With time, all aspects of the treaty will be realized and with continuing goodwill, commitment and effort by all parties, the new relationship will come to maturity.

STATUS OF EACH NEGOTIATION

CARIBOO TRIBAL COUNCIL

The parties at the Cariboo Tribal Council table exchanged their respective visions for a treaty in the fall and winter of 1999. Then the Cariboo Tribal Council gave its land interest presentation at an open meeting in April 2000 which outlined land use categories of interest, as well as areas of concern, throughout the traditional territory. The table released four draft chapters of the treaty at its May 26 meeting for public consultation. The Cariboo Tribal Council is also known as the Northern Secwepemc te Qelmuw and its four member communities are the Williams Lake Band, Soda Creek Band (Xatsu'll First Nation), Canoe Creek Band and Canim Lake Band (Tsqescen). The Cariboo Tribal Council currently represents approximately 1,800 people.

CARRIER SEKANI TRIBAL COUNCIL

The Carrier Sekani Tribal Council table worked exclusively on negotiating a forestry interim measure during the past year. Progress has been slow and some tribal council member bands have expressed their frustration through direct action and litigation. The tribal council represents seven communities northwest of Prince George including Broman Lake, Nak'azdli, Nadleh Whuten, Stellat'en, Stoney Creek, Takla Lake and Tl'azt'en. The combined membership of the tribal council is approximately 5,000.

CHESLATTA CARRIER NATION

The Cheslatta Carrier Nation table has not engaged in tripartite negotiations since May 1997. Cheslatta is focused on activities outside the treaty process including discussions with Alcan and participation in the Nechako Watershed Council. The Cheslatta Carrier Nation's traditional territory encompasses Ootsa and Eutsuk lakes and surrounding areas with a membership of approximately 220 people.

COUNCIL OF THE HAIDA NATION

Tripartite negotiations towards a treaty have not yet begun at the Council of the Haida Nation table. The Council of the Haida Nation focus over the past year has been on forestry issues culminating in an Order-In-Council by the provincial government in October 1999 deferring logging in the controversial Duu Guusd area on Graham Island. Located on Haida Gwaii, also known as the Queen Charlotte Islands, the council represents approximately 3,575 people.

DITIDAHT FIRST NATION / PACHEEDAHT BAND

These two First Nations have been negotiating at a common table since August 1997. The past year has seen relatively little substantive negotiating activity. Canada and BC were busy preparing a settlement offer and then all three parties were dealing with the immediate repercussions of that offer.

The offer, in October 1999, was strongly criticized by the First Nations for being premature and for falling far short of their objectives. The parties recently agreed to schedule further negotiations. Located on the southwest corner of Vancouver Island, Ditidaht has 524 members and Pacheedaht has 215.

ESKETEMC FIRST NATION

The Esketemc First Nation table has had no tripartite negotiations since July 1999. Esketemc is discussing forestry issues with BC's Ministry of Forests. The First Nation's traditional territory surrounds Alkali Lake, southwest of Williams Lake. It has a membership of approximately 640 people.

GITANYOW HEREDITARY CHIEFS

A settlement offer was made jointly to the Gitanyow Hereditary Chiefs by Canada and BC in November 1999. The Gitanyow chiefs criticized the joint offer for ignoring the Gitanyow desire for a treaty partnership throughout their traditional territories. However, the parties continue to negotiate.

The territorial dispute between the Gitanyow and the Nisga'a Nation is a major concern at this table. Last year, Gitanyow sought a court ruling that 1) Canada and BC are under an obligation to negotiate in good faith with Gitanyow and that 2) the signing of the Nisga'a Final Agreement would be contrary to that obligation. The court ruled that Canada and BC are obliged to negotiate in good faith. Canada and BC's appeal will be heard in late May 2000. The court has yet to address the second issue.

The Gitanyow traditional territory straddles the middle reaches of the Nass River. The First Nation has approximately 600 members.

GITXSAN HEREDITARY CHIEFS

There have been no tripartite treaty negotiations at this table since BC suspended negotiations in early 1996. The First Nation has been engaged in bilateral talks with BC since late 1998 on forestry, wildlife and other matters. The Gitxsan comprise approximately 5,065 people, many of who live in a large area in the upper reaches of the Skeena and Nass rivers. The Gitxsan communities are Gitanmaax, Gitsegukla, Gitwangak, Glen Vowell and Kispiox.

HAISLA NATION

The Haisla table has made progress in drafting sub-agreements on lands and resource topics. But it has been unable to complete negotiation of an Environmental Pilot Project in the face of strong concerns from local non-aboriginal interests. The First Nation, located near Kitimat, has approximately 1,450 members.

HEILTSUK NATION

The Heiltsuk table continued an intense schedule of negotiations that has seen the First Nation present interest and position papers on many fisheries-related topics. The table hopes to consider specific interests on lands in the near future. Located on the central coast, the First Nation has approximately 2,000 members.

HOMALCO INDIAN BAND

Homalco has tabled a series of proposals, including one for governance in May 1998 and one on lands and resources in July 1999. The table has been negotiating governance issues for several months. BC and Canada plan to respond to Homalco's proposal on lands and resources this summer. The traditional territory encompasses Campbell River and the Bute Inlet watershed and extends to Chilko Lake. The Homalco First Nation has a membership of approximately 400 people.

HUL'QUMI'NUM TREATY GROUP

The Hul'qumi'num Treaty Group is taking time out from negotiations for internal re-structuring and plans to return to negotiations by fall 2000. In the meantime, the Cowichan Tribes are discussing forestry issues with the provincial government. The treaty group has six member communities: Chemainus, Cowichan Tribes, Halalt, Lake Cowichan, Lyackson and Penelakut with a combined membership of approximately 5,255 people. The traditional territory is the area around Duncan, north to Ladysmith, east to the Gulf Islands and west to Cowichan Lake.

IN-SHUCK-CH

Canada and BC made a comprehensive offer including land and cash at the In-SHUCK-ch/N'Quat'qua table in October 1999. Subsequent to the offer, the N'Quat'qua band decided to withdraw from negotiations. The three remaining In-SHUCK-ch bands, with approximately 720 members, are in the midst of re-organizing to resume negotiations. The three communities are Douglas, Samahquam and Skookumchuck.

KATZIE INDIAN BAND

The Katzie table remained idle during this past year while the First Nation reviewed its mandates. But the table may soon resume negotiations on a Framework Agreement. The band, located near Pitt Meadows in the Lower Mainland, has a membership of approximately 450.

KASKA DENA COUNCIL

Activity at the Kaska Dena table dropped significantly midway through 1999 after the parties discussed potential land and cash components of the treaty. However, activity has increased steadily in recent months around a number of governance and general provisions of the treaty. The Kaska Dena Council represents approximately 1,400 members of the Kaska Nation who reside in British Columbia. Given that Kaska Nation territory spans the Yukon, Northwest Territories and north central BC the fundamental issues raised by the multi-jurisdictional nature of the territory still must be resolved.

KLAHOOSE INDIAN BAND

Since entering stage 4 agreement-in-principle negotiations in February 1997, Klahoose, Canada and BC have discovered that they have dramatically different ideas on the amount of land they would be prepared to see in a treaty. The table has set aside formal negotiations while this stalemate exists, choosing instead to focus on interim measures where they may be able to reach agreement. Located north of Sechelt on the south coast, the nation has approximately 285 members.

KTUNAXA/KINBASKET TREATY COUNCIL

The five communities of the Ktunaxa/Kinbasket Treaty Council established a citizen-based model of governance over the past year. Previously the chiefs from each of the five communities served as the decision-making body for treaty negotiations despite their overwhelming workload with regular band business. The newly created Treaty Council consists of all interested Ktunaxa/Kinbasket members who make decisions at regular meetings. The Ktunaxa/Kinbasket believe this to be truly representative of their membership and trust that it will allow them to negotiate a solid, lasting treaty at the end of the day. Negotiations with Canada and BC have continued steadily since the table entered stage 4 in May 1998. The treaty council has a combined membership of approximately 1,100.

LAICH-KWIL-TACH K'OMOKS MAMALILLIKULA TLOWITSIS COUNCIL OF CHIEFS

The Laich-Kwil-Tach K'omoks Mamalillikula Tlowitsis table is building momentum in early negotiations of an agreement in principle. Kwakiutl Laich-Kwil-Tach Council of Chiefs has changed its name to reflect the names of the member communities, which now include K'omoks.

The parties are exchanging technical information, discussing lands and resources, sketching out general visions of a treaty and considering the potential for interim measures. The council comprises six communities in the Campbell River-Courtenay-Comox region with a combined membership of approximately 2,200.

LAKE BABINE NATION

The Lake Babine table has not met since 1998 while the First Nation assesses its mandates and other internal matters. The nation, located near Burns Lake, has approximately 1,860 members.

LHEIDLİ T'ENNEH BAND

The Lheidli T'enneh Band table is one of the lead tables in the treaty process. Eleven chapters have been released for public consultation and as many more are being refined through ongoing negotiations. Monthly main table meetings are open to the public and are supplemented by working group negotiations. Canada and BC are planning a joint settlement offer for summer 2000. Lheidli T'enneh's traditional territory surrounds the Prince George area and spans to the Alberta border. The Lheidli T'enneh has a membership of approximately 260 people.

MUSQUEAM NATION

This table has been stalled since late 1998 over the issue of compensation. The First Nation wants assurances that compensation can be negotiated in stage 4. Canada and BC acknowledge that compensation is important to Musqueam, but see treaties as a means of building new forward-looking relationships. Compensation has been identified as an issue for discussion among the Principals. The Musqueam Nation numbers approximately 1,000 and is located in the lower mainland.

NAZKO INDIAN BAND

The Nazko table is meeting regularly and is making slow but steady progress. Side tables have been established to address forestry and access issues. Nazko's traditional territory is the area surrounding Nazko, southwest of Prince George. It has a membership of approximately 280 people.

NORTHERN REGIONAL NEGOTIATION TABLE

The Northern Regional Negotiation table in northern BC consists of four First Nations with territories that span the BC-Yukon boundary: Champagne and Aishihik First Nations, Teslin Tlingit Council, Taku River Tlingit First Nation and Carcross/Tagish First Nation. The parties to the table were engaged in fairly intense negotiations towards an agreement in principle throughout 1999. In December, however, Champagne and Aishihik determined that the gap was too large between their expectations to reach agreement and those of Canada and BC and they withdrew from the negotiating table. In March 2000, the Carcross/Tagish negotiations were halted as well. Active negotiations have not yet resumed for Taku River Tlingit and Teslin Tlingit. These four nations represent approximately 2,000 people.

NUU-CHAH-NULTH TRIBAL COUNCIL

The Nuu-chah-nulth are engaged in intensive negotiations with a settlement offer expected later this year. Two of the tribes, earlier this year, expressed an interest in negotiating separately from the tribal council. At the time of writing, this matter has not been finalized. A third, Tla-o-qui-aht, stood down from the treaty table in early April for a four-month period to protest Transport Canada's transfer of Tofino Airport to the Regional District of Alberni/Clayoquot.

The parties have agreed to address this issue as a priority. At approximately 6,500 members, Nuu-chah-nulth is one of the largest First Nations in the treaty process. Its territories span most of the west coast of Vancouver Island.

OWEKENO NATION

Oweekeno has focused most of its energies on capacity building over the past year. It is expected to formally decide during the summer when it will resume active negotiations. The First Nation comprises 211 members and is located on the central coast, south of Bella Coola.

SECHELT INDIAN BAND

The parties to the Sechelt table celebrated the signing of an agreement in principle in April 1999, the first one in the BC treaty process. The table proceeded with stage 5 negotiations of a final agreement from April until November, when the Sechelt Indian Band asked for time to do internal consultation work within their community. The table has not formally met since that time as Sechelt continues to review their community needs for a treaty and how best to accomplish them. Located on the south Coast, Sechelt has approximately 1,025 members.

SLIAMMON INDIAN BAND

The Sliammon table has had an intense negotiation schedule this past year and is currently one of the lead tables in the treaty process. Sliammon made a lands and resources presentation in July 1999. Canada and BC made a joint settlement offer in January 2000 to which Sliammon made a counter-offer in February. The parties are completing chapters on key topic areas with a view to completing an agreement in principle this year. Sliammon's traditional territory is in the Powell River area, including Sliammon, Powell Lake, the Gulf Islands west to Courtenay and the Desolation Sound area. It has a membership of approximately 855 people.

SNUNEYMUXW FIRST NATION

The parties to the Snuneymuxw table each made formal offers detailing the components of an agreement in principle in January 2000. None of the parties accepted the others' offer but are continuing negotiations in an effort to reach an agreement. The table is focusing on land as the priority. The offers are outlined in the Treaty Commission's February 2000 Update newsletter. Located in Nanaimo, the First Nation has approximately 1,250 members.

SQUAMISH NATION

The Squamish table last met in January 1998. Squamish Nation has been taking time out to address initiatives other than treaty, such as implementing the First Nations Land Management Act and resolving specific claims. Squamish Nation's traditional territory includes much of the lower mainland area as well as Howe Sound and the Squamish Valley watershed. Squamish Nation has a membership of approximately 3,000 people.

STO:LO NATION

The parties at the Sto:Lo Nation table exchanged their visions of a treaty at a negotiating session May 26. These presentations are an important step in moving the negotiations forward. Sto:Lo Nation currently has 17 communities participating in the treaty process: Aitchelitz, Chawathil, Kwantlen, Kwawkwakapilt, Lakahamen, Matsqui, Ohamil, Popkum, Scowlitz, Seabird Island, Skawahlook, Skowkale, Soowahlie, Squiala, Sumas, Tzeachten and Yakweakwioose. Sto:Lo's traditional territory includes the Fraser Valley, much of the lower mainland and the Harrison Lake watershed. Sto:Lo Nation represents approximately 3,230 people in its treaty negotiations.

TE'MEXW TREATY ASSOCIATION

Negotiations at this table are proceeding slowly, in part because of the unusual challenge it faces in addressing the Douglas Treaty rights of the constituent First Nations within a modern treaty process. In the 1850s, 14 Vancouver Island First Nations signed treaties with the government that protected their village sites and their rights to hunt and fish as before. Located at the southern end of Vancouver Island, the five-member association has a combined membership of approximately 1,180. The five communities are Beecher Bay, Malahat, Nanoose, Songhees and T'souke.

Ts'kw'aylaxw First Nation

Negotiations at the Ts'kw'aylaxw table progressed steadily throughout the year, culminating in a frank exchange of positions in May 2000. The parties now have to determine how they can bridge the gap in their expectations. Located in the Pavilion area near Lillooet, the First Nation has approximately 445 members.

Tsawwassen First Nation

The Tsawwassen table is continuing to make progress towards an agreement in principle. In the past year the parties exchanged substantive information on what they expect to see in a treaty and have found that they have the basis for accelerating their negotiations. The negotiators to the Tsawwassen table face the challenge of negotiating a treaty in an urban centre. The First Nation located in the lower mainland, has approximately 220 members.

Tsay Keh Dene Band

The Tsay Keh Dene Band table is one of the lead tables in the treaty process. Following Tsay Keh Dene's comprehensive proposal of January 1999, the table has had an intense negotiation schedule and is starting to release draft chapters of the treaty for consultation. Canada and BC are planning a joint settlement offer for fall 2000. Tsay Keh Dene's traditional territory is in the Williston Lake area with a membership of approximately 300 people.

Tsimshian Nation

The seven First Nations of the Tsimshian Nation continued negotiations towards an agreement in principle throughout the past year. Five of the seven communities made formal presentations of their respective visions for a treaty. Tsimshian Nation, located in the Terrace-Prince Rupert region of the northwest coast, has approximately 7,000 members.

TSLEIL-WAUTUTH NATION

The pace of negotiations has slowed at this table as the parties continue to explore to what extent Canada's and BC's vision of a treaty is consistent with the model envisaged by the First Nation. Located in North Vancouver, the First Nation has approximately 350 members.

WESTBANK FIRST NATION

There was a hiatus in negotiations at the Westbank table from September 1998 until recently while Westbank reviewed its participation in the treaty process. Informal meetings between Westbank, Canada and BC began in January 2000 to try to find a way to restart the negotiations. In May 2000, the table signed a political accord that will take them another step towards the negotiating table. The Westbank First Nation is part of the broader Okanagan Nation and discussions are underway between them to address how negotiations might proceed. Located in the Kelowna area, Westbank has approximately 560 members.

WET'SUWET'EN NATION

This table has been working steadily over the past year. The Wet'suwet'en have placed great emphasis on strengthening ties with local governments, communities and businesses.

Two areas where the Wet'suwet'en hope to make progress and where they are seeking some form of pre-treaty arrangement are lands and resources and Wet'suwet'en child and family services.

On April 27, 2000, the First Nation, Canada, and BC signed a Political Accord Concerning Lands and Resources that committed the parties to working together towards economic partnerships, Wet'suwet'en capacity development and Wet'suwet'en training needs in forestry and other sectors. The accord is not a product of treaty negotiations but is seen by the parties as a building block towards a treaty.

The table continues to work on the second of the priorities, child and family services.

The Wet'suwet'en territory covers the greater part of the Bulkley River drainage area in northwestern BC with a membership of approximately 2,200.

WINALAGALIS TREATY GROUP

Five of the six First Nations at the Winalagalis table have completed negotiation of Framework Agreements and are expected to begin stage 4 agreement-in-principle negotiations in mid-2000. The Quatsino First Nation, Canada and BC did not complete a Framework Agreement due to disagreement over the list of substantive topics to be negotiated in stage 4. Located on Vancouver Island's north end, the treaty group has a membership of approximately 3,150.

XAXLI'P FIRST NATION

Since entering stage 4 agreement-in-principle negotiations in November 1997, the table has not engaged in formal negotiations. Xaxli'p First Nation has been focusing on consultation with its membership and articulating a vision of what the community needs in a treaty. In February 2000, after a long hiatus, the table reconvened and has scheduled sessions for all three parties to exchange their visions for a treaty. Located in the Fountain Valley north of Lytton, the First Nation has approximately 800 members.

YALE FIRST NATION

The Yale First Nation table negotiations are proceeding slowly with the parties working on developing a new approach to encourage progress. The Yale First Nation's traditional territory is in the area around Yale, north of Hope, with a membership of approximately 135 people.

YEKOOCHÉ NATION

Yekooche has, during the past year, adopted an electoral code, held elections, appointed a new negotiating team and commenced new community consultations on treaty negotiations.

The Treaty Commission actively participated in the consultations. In April 2000, the parties agreed to resume tripartite negotiations with a view to Canada and BC making a settlement offer early in 2001. Located northwest of Fort St. James, the First Nation has approximately 130 members.

ABOUT TREATY NEGOTIATIONS

For more than 150 years First Nations in BC have consistently sought recognition of their aboriginal rights and title—through petition, protest, litigation and negotiation.

British Columbians overwhelmingly agree that the matters in dispute can only be resolved through negotiations, not by confrontation and not by going to court.

The courts, historically, have had an important role to play in clarifying aboriginal rights and urging governments to negotiate. They have increasingly clarified the nature of aboriginal rights and title, most significantly in the Supreme Court of Canada decision in the *Delgamuukw* case in December 1997. The Supreme Court characterized aboriginal rights and title as: a constitutionally protected right; a right to exclusive use and occupation of land; and a burden on Crown title. Other recent decisions have generally been favourable to First Nations.

First Nations view their title as including ownership, jurisdiction and governance over their land, resources and people. This perspective of aboriginal title is based on the fact that First Nation communities with well-established governing systems existed long before contact with non-aboriginal people.

First Nations have sought to protect their interests in land, sea and resources through negotiations, or direct action, or by asserting their authority over their entire traditional territory.

If a First Nation does decide to go to court to establish title to lands, it will have to prove that it occupied the land prior to 1846, the year British sovereignty was established over the area that became British Columbia. Then it has to prove some degree of continuity from that occupation until today. The government of Canada cannot pass a law to do away with aboriginal title.

The treaty process was set up as a voluntary process based on political negotiations, not legal interpretations. In treaty negotiations, a First Nation does not have to prove aboriginal title. To be accepted into the treaty process, a First Nation must be an aboriginal governing body, however organized and established by aboriginal people within their traditional territory in BC, which has been mandated by its constituents to enter into treaty negotiations on their behalf with the governments of Canada and BC.

Through treaties, largely undefined aboriginal rights and title are clearly defined. Each First Nation, Canada and BC will have a full understanding of their respective authorities and responsibilities. No one party can dictate the terms of the new relationship that will be captured in a treaty: all three must agree.

Once concluded, these treaties and the rights defined in them are protected under section 35 of the Constitution Act, 1982. They cannot be unilaterally amended. This is a fundamental principle of the new relationship—only those who make the treaty can change it.

ROLE AND COMPOSITION

The Treaty Commission is the independent, neutral body responsible for facilitating treaty negotiations among Canada, British Columbia and First Nations in BC. It oversees the treaty negotiation process to make sure the parties are being effective and making progress in negotiations.

Canada, BC and First Nation governments have no say in its decisions and the Treaty Commission is not a part of any government. It does not negotiate treaties—that is done by the three parties at each negotiating table: each First Nation, Canada and BC.

The treaty process and the Treaty Commission were established in September 1992 by agreement among Canada, BC and the First Nations Summit. They are guided by those agreements and modeled on the relevant recommendations in the 1991 BC Claims Task Force report. The Treaty Commission and the six stage treaty process were designed to advance treaty negotiations among Canada, BC and BC First Nations.

Responsible for accepting First Nations into the treaty process, the Treaty Commission also assesses when the parties are ready to start negotiations. It develops policy and procedures applicable to the six stage treaty process, monitors and reports on the progress of negotiations, identifies problems, offers advice and sometimes assists the parties in resolving disputes. It allocates negotiation support funding, primarily in the form of loans, to First Nations in the treaty process.

The Treaty Commission has a major role to play in public information and education. Its first objective is to raise public awareness and understanding of the historical and legal reasons for treaty making and the Treaty Commission's role in the BC treaty process. Its second objective is to provide public information on the treaty process, the Treaty Commission and the status of negotiations at each table.

Five commissioners guide the Treaty Commission. Of the four part-time commissioners, two are selected by the First Nations Summit, one is appointed by Canada and one is appointed by British Columbia. The Principals—Canada, BC and the First Nations Summit—act together in appointing a full-time chief commissioner.

The Treaty Commission's independence and neutrality are reflected in its composition and in the way it makes decisions. Commissioners do not represent the Principals that appoint them, but act independently. Every decision requires the support of one appointee of each of the Principals and the chief commissioner.

Commissioners and staff regularly travel to all regions in British Columbia to monitor treaty negotiations and the parties' compliance with commitments they have made to the treaty process. In addition to the five commissioners, the Treaty Commission employs a staff of 14. The operating budget for the fiscal year covered by this report was \$1.86 million.

PUBLIC INFORMATION A PRIORITY

Canada and British Columbia have made joint offers at five negotiation tables and many First Nations have presented their proposals for a treaty since our last annual report. Although each of the offers was rejected, negotiations are continuing.

Many people, including those in the media, are unsure what these developments mean and what this reaction suggests for the overall state of the treaty process. Because of these questions the Treaty Commission believes the need to provide timely and accurate information is even greater.

British Columbians, both aboriginal and non-aboriginal, have specific questions and concerns about the treaty process and treaty negotiations. The Treaty Commission, along with the governments of Canada, British Columbia and First Nations, has a responsibility to provide this information.

Providing information on the treaty process and treaty negotiations to non-aboriginal and aboriginal people, to urban and rural residents, to business and industry, to government and media is a key part of the Treaty Commission's mandate.

This and previous annual reports are important sources of information on the treaty process. The Treaty Commission also publishes a newsletter called Update to keep people informed on the status of negotiations. The next edition will be available in the fall.

A touch-screen video display has been developed by the Treaty Commission to raise awareness of treaty negotiations in the province. The display uses a video monitor to deliver answers to commonly asked questions. Various participants in the treaty process provide the answers through video clips. Two identical displays were constructed for use in various parts of the province.

The Treaty Commission website at www.bctreaty.net is increasingly becoming the resource of choice for news reporters, teachers, students, researchers and anyone interested in learning about the treaty process. It is a quick and easy way to acquire useful and up-to-date information on treaty negotiations. There were over 17,000 unique visits to the website in 1999 and nearly 600,000 hits. The past year has seen many additions to the site including a comments page, search engine and an official contacts list.

The past year saw a number of brochures published by the Treaty Commission. A Lay Persons guide to Delgamuukw, After Delgamuukw, Treaty Commission, and Why Treaties? are publications based on popular articles from previous annual reports and are available in printed form or at www.bctreaty.net.

The Treaty Commission is also helping to raise awareness through a poster promoting our web site and our toll free telephone number that people can call to get information about treaty making in BC.

In March, the Treaty Commission distributed a media handbook to all media outlets in the province to serve as a guide to treaty making. Many journalists from the lower mainland and elsewhere attended a Treaty Commission workshop to learn about key issues in treaty negotiations at the time the media handbook was first launched. Also available at www.bctreaty.net, the handbook provides a brief summary of treaty issues and the debates that surround them. A revised and reorganized edition of this handbook is being developed and will be available soon for general distribution.

A video and viewers guide has been developed by the Treaty Commission primarily for use in high schools to be distributed in the fall.

The Treaty Commission maintains a toll-free telephone inquiry line at 1 800 665-8330 and an email inquiry line at info@bctreaty.net to respond to questions and requests for information. Anyone interested in receiving regular information will be added to the Treaty Commission mailing list.

The Treaty Commission provides speakers and information for a variety of events and treaty-related meetings. It also provides speakers to schools, colleges and universities upon request.

A resource directory of information available from the Treaty Commission, the governments of Canada and British Columbia and the First Nations Summit has recently been updated and is available at www.bctreaty.net or in booklet form from the Treaty Commission.

FUNDING FOR NEGOTIATIONS INCREASES

The federal and provincial governments have increased negotiation support funding for First Nations in the treaty process.

Loan and grant funding available for allocation to First Nations will increase from approximately \$28 million last year to \$40.7 million for fiscal year 2000-2001, recognizing the increased activity in negotiations throughout the province.

The Treaty Commission receives a fixed amount of money from the federal and provincial governments each year to allocate to First Nations in the treaty process: 80% through loans from the federal government; and 20% through grants from the federal and provincial governments. The federal government provides 60% of the grant funding and BC provides 40%.

Funding levels to support First Nations in treaty negotiations have stayed about the same over the last three years, while the number, intensity and complexity of negotiations has increased dramatically. In asking the federal and provincial governments to increase funding to support First Nations in negotiations, the Treaty Commission anticipated that several agreements in principle would be signed this year. But it is now uncertain whether that goal will be reached. This may mean that not all funds will be allocated this year, as they will be required next year as agreements are reached and the parties finalize treaties.

Under funding guidelines developed by the federal and

provincial governments and the First Nations Summit, First Nations in stage 4 receive more funding than in previous stages. This is to meet the increased level of research and negotiation time required and to recognize the complexity of the advanced stages of negotiation. When a First Nation reaches stage 5, funding increases again to reflect the intense time commitment and legal complexities involved in finalizing a treaty.

Larger First Nations that saw the most significant budget cuts in recent years will have bigger budgets this year as long as activity levels are similar. Funding allocations recognize that larger First Nations — those with large populations and/or several communities — require a higher level of funding. Geographic location is also a factor in funding First Nations who face the high costs of long-distance travel between communities and to negotiation meetings.

At tables where there are fewer meetings or less active negotiations, First Nations receive a lower level of funding to provide for community consultations and to deal with internal issues with a view to preparing for tripartite negotiations.

With a larger budget for allocation this year, the Treaty Commission will be able to provide funding if additional First Nations decide to enter into treaty negotiations, a flexibility not available in recent years. The Treaty Commission has allocated \$151 million in negotiation support funding to First Nations, \$120 million as loans since 1993.

TREATY COMMISSIONERS



MILES RICHARDSON was appointed Chief Commissioner on November 19, 1998 for a three-year term. He had been serving as a Commissioner since

November 1995 prior to his appointment as Chief Commissioner. Formerly President of the Council of the Haida Nation, he was a member of the First Nations Summit Task Group from 1991 to 1993. Mr. Richardson was a member of the BC Claims Task Force, whose report and recommendations is the blueprint for the treaty negotiation process. He holds a Bachelor of Arts (1979) from the University of Victoria.



WILF ADAM became a Commissioner in April 1995. He was re-elected for further two-year terms in April 1997 and April 1999. He is a former Chief Councillor

of the Lake Babine Nation and former chair of the Burns Lake Native Development Corporation. Mr. Adam is a co-founder of the Burns Lake Law Centre. He was born in Burns Lake and raised at Pendleton Bay. In 1985, he completed a course in Business Management at the College of New Caledonia in Prince George.



DEBRA HANUSE was appointed Commissioner on November 26, 1998 to serve the remainder of Miles Richardson's term. She was then elected for

a two-year term in April 1999. Raised in Alert Bay, Ms. Hanuse is a member of the N'amiq Nation of the Winalagalis Treaty Group. She holds a Bachelor of Arts in Political Science from Simon Fraser University (1986), and a Bachelor of Laws from the University of British Columbia (1990). She was admitted to the Bar in 1991. For four years, she practiced corporate, commercial and aboriginal law with the firm of Davis and Company. In 1995, Ms. Hanuse began her own practice where she was involved in treaty negotiations on behalf of First Nations.



KATHLEEN KEATING was appointed to the Treaty Commission in April 1998 for a two-year term and re-appointed to a two-year term in April 2000. Ms. Keating is

a lawyer, writer, trainer and consultant in the areas of court process and plain language drafting. She is a member of the Council of the Commonwealth Lawyers Association and has served as a member of the Vancouver Police Board, where she was involved in chairing public inquiries and disciplinary hearings. Ms. Keating is also a former member of the Public Library Board, and a founding member of the BC Society for Translators. She earned her Bachelor of Laws (1976) from the University of British Columbia.



PETER LUSZTIG was first appointed to the Commission in April 1995. He was re-appointed for further two-year terms in April 1997 and April 1999. A

former Professor of Finance at the University of British Columbia, he served as Dean of the Faculty of Commerce and Business Administration. In addition to his academic experience, Mr. Lusztig has played an active role in public affairs as a member of one Royal Commission and one Commission of Inquiry and has served with numerous community and business boards. Mr. Lusztig earned his Bachelor of Commerce from the University of British Columbia (1954), his MBA from the University of Western Ontario (1955) and his PhD from Stanford University (1965).

HISTORY AND PROGRESS

DECEMBER 1990 BC Claims Task Force formed.

JUNE 1991 BC Claims Task Force makes its report. The report recommends that a new relationship among First Nations, Canada and BC be established through political negotiations and makes recommendations for the achievement of that goal.

SEPTEMBER 21, 1992 BC Treaty Commission Agreement among First Nations Summit, Canada and BC.

APRIL 1993 First Treaty Commissioners appointed.

MAY 1993 First Nations Summit Consent Resolution establishing BC Treaty Commission.

MAY 1993 Treaty Commission Act passed by the BC Legislature.

DECEMBER 1993 Treaty Commission begins receiving Statements of Intent. 29 First Nations file statements to negotiate treaties.

JUNE 1994 Treaty Commission releases its first Annual Report: has accepted 41 Statements of Intent from First Nations to negotiate treaties.

JUNE 1995 Treaty Commission releases its second Annual Report: has accepted 43 Statements of Intent from First Nations to negotiate treaties; 36 First Nations in stage 2; 7 First Nations in Stage 3.

DECEMBER 1995 BC Treaty Commission Act passed by federal Parliament.

MARCH 1, 1996 BC Treaty Commission Act proclaimed by Canada, BC and First Nations Summit resolution.

JUNE 1996 Treaty Commission releases its third Annual Report: has accepted 47 Statements of Intent from First Nations to negotiate treaties: 14 First Nations in Stage 2; 22 First Nations in Stage 3; 11 First Nations in Stage 4.

JUNE 1997 Treaty Commission releases its fourth Annual Report: has accepted 50 Statements of Intent from First Nations to negotiate treaties; 11 First Nations in Stage 2; 12 First Nations in Stage 3; and 27 First Nations in Stage 4.

DECEMBER 11, 1997 Supreme Court of Canada decision in the Delgamuukw case confirms aboriginal title exists in British Columbia, describes its content, requirements for proof, and the limits on its infringement and extinguishment by public governments.

APRIL 1998 At the urging of the Treaty Commission, the Principals begin a series of meetings to address major issues required to reinvigorate the treaty negotiation process in the wake of Delgamuukw case. Principals agree that tripartite negotiations within the BC treaty process will continue while the review is underway.

MAY 1998 Representatives of the three Principals agree to reappoint Chief Commissioner for a further two-year term. The provincial Cabinet does not approve the reappointment. The Chief Commissioner's appointment expires May 14, 1998. Commissioners take turns serving as Acting Chief Commissioner.

JUNE 1998 Treaty Commission releases its fifth Annual Report: has accepted 51 Statements of Intent from First Nations to negotiate treaties; 3 First Nations in Stage 2; 12 First Nations in Stage 3; and 36 First Nations in Stage 4.

AUGUST 4, 1998 Negotiated outside of the BC treaty process, the Nisga'a Nation, Canada and BC sign first modern treaty in BC.

NOVEMBER 19, 1998 Miles Richardson appointed Chief Commissioner for a three-year term by Canada, BC and the First Nations Summit.

MARCH 1999 BC Supreme Court decision in the Gitanyow case confirms that when the federal and provincial governments enter into treaty negotiations they are obliged to conduct those negotiations in good faith.

APRIL 16, 1999 Sechelt Indian Band, Canada and BC sign first agreement in principle under the BC treaty process.

JUNE 1999 Treaty Commission releases its sixth Annual Report: has accepted 51 Statements of Intent from First Nations to negotiate treaties; 1 First Nation in Stage 2; 12 First Nations in Stage 3; 37 First Nations in Stage 4; and 1 First Nation in Stage 5.

APRIL 13, 2000 Nisga'a treaty becomes law.

JUNE 2000 Treaty Commission releases its seventh Annual Report: has accepted 51 Statements of Intent from First Nations to negotiate treaties; 1 First Nation in Stage 2; 11 First Nations in Stage 3; 38 First Nations in Stage 4; and 1 First Nation in Stage 5.

RESOURCES

A Resource Guide is available from the Treaty Commission at www.bctreaty.net or by calling 1 800 665.8330 or 604 482.9200.

Publications

BC Treaty Commission newsletter *Update* and three brochures *Delgamuukw*, *Treaty Commission* and *Why Treaties?* Available at www.bctreaty.net or by calling 1 800 665.8330 or 604 482.9200.

Federal Treaty Negotiation Office newsletter *Treaty News* Available at www.inac.gc.ca or by calling 1 800 665.9320 or 604 775.7114.

Ministry of Aboriginal Affairs publications Available at www.gov.bc.ca/aaf or by calling 1 800 880.1022.

Understanding the BC Treaty Process, 2nd edition Available by calling the First Nations Summit at 604 990.9939

Videos

What's the deal with Treaties, A BC Treaty Commission Production, 2000
For use in schools and available soon from your local library

Making Treaties in BC, Motion Visual Productions, 1998

Recommended reading

What's the deal with treaties? A lay person's guide to treaty making in British Columbia
A BC Treaty Commission publication, 2000

Treaty Talks in British Columbia, Chris McKee, UBC Press
Revised edition to be published this year